



EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

August 1, 1978

Reg
OLC #78-2002/V

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer

Department of Defense
Department of Justice
✓ Central Intelligence Agency
National Security Council (Bob Kimmitt)
Board for International Broadcasting
International Communication Agency
Department of the Treasury
Civil Service Commission
Office of the Special Trade Representative

SUBJECT: State proposed report on Sec. 108 of the State Department Authorization Act as adopted by the Senate (S. 3076) and a letter outlining other provisions of particular concern to the Administration.

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than noon Wednesday, Aug. 2, 1978. Phone comments are accepted. If we have not heard back from your agency by this deadline, we will assume you have no problems with the letters as drafted. Questions should be referred to Tracey Cole (395-4710) or to _____, the legislative analyst in this office.

for Tracey Cole
RONALD K. PETERSON for
Assistant Director for
Legislative Reference

Enclosures

Ed Strait

Ed Sanders

Jane Finn

Dave Spevacek



DEPARTMENT OF STATE

Washington, D.C. 20520

Dear Mr. Chairman:

This week House/Senate Conferees are tentatively scheduled to meet to resolve differences in their respective versions of the Foreign Relations Authorization Act for the Fiscal Year 1979.

The following represents the Administration's views on certain provisions of this legislation which are of particular concern to us:

1. United Nations Palestinian Rights Committee --
Section 101(a)(3) - Senate Version

The Administration is strongly opposed to the prohibitory language contained in this section. Restricting the funding to United Nations Organizations is in direct conflict with the Administration's commitment to honor our international obligations even though international organizations undertake actions which we do not fully support. Adoption of this section would further politicize the United Nations.

Therefore the Administration urges the conferees to adopt Section 114 of the House version.

2. Special Computation of Annuities --
Section 407 - House Version

The Administration is opposed to House Section 407 for the following reasons:

(1) It would compensate for a pay freeze with higher annuities when the President has decided to freeze executive pay;

The Honorable

Clement J. Zablocki,
Chairman, Committee on
International Relations,
House of Representatives.

(2) It could set an expensive precedent to extend similar benefits to not only "capped" federal executives under Civil Service and other retirement systems but also to all Federal Employees; and

(3) As there is an increasing public belief that Federal Retirement Systems are very generous, further liberalization of the Foreign Service Retirement System at this time is inappropriate in view of the President's effort to control inflation by setting an example of restraint in expenditures for Federal services. The President has personally expressed his disapproval of this section to Secretary Vance and indicated that retention of this section may jeopardize Presidential approval of the FY-79 Foreign Relations Authorization Act.

3. Normal Diplomatic Relations --
Section 411 - Senate Version

The Administration is strongly opposed to this section because it would impede the flexibility of the Executive Branch in its dealings with foreign governments and normalization of relations. The Administration does not believe that conditions for normalization should be legislated in view of the uniqueness of our relations with each country.

4. Reporting and Coordination of International
Agreements -- Section 501 - Senate Version

While the Administration supports this provision, we are opposed to oral agreement reporting requirement because it would be extremely difficult if not impossible inherently to determine what activities or arrangements should be reduced to writing, and it would be burdensome to enforce. We are also opposed to the requirement for Presidential Reports on late transmittals since the Department of State already performs that function. The President should not be burdened with a task that is already being performed and which is of a routine nature. Finally, the Administration is opposed to the particular provision regarding the role of the State Department unless the words "consultation with" are substituted for the words "approval of" in a proposed sub-section of 112(c)(1)(a), and that 112(c)(1)(b) is revised to read "such consultation may encompass a class of agreements rather than particular agreements."

5. Relations With Angola ---
Senate Section 425

The Administration is strongly opposed to this kind of amendment on the following grounds:

(1) It would unnecessarily restrict the Executive's ability to conduct foreign policy vis-a-vis Angola; and

(2) It could send a negative signal to the Angolans at a time when they have been extremely helpful to our efforts to bring about a normal transition to independence for Namibia - a major foreign policy goal of this Administration.

6. Concurrent Resolution --
Cuba - Senate Section 426

The Administration strongly opposes this section even though it shares the concern and objectives of this provision. We believe that closing the U. S. Interests Section in Havana would significantly hinder our important humanitarian objectives which require a limited official presence in Cuba. The Interests Section serves U. S. objectives, not Cuban. For example, the Section provides aid and comfort to American prisoners and continues efforts to secure their release, assists expatriated Americans and their families, presses the Cuban Government for unification of long-divided families, and finally, provides a most useful channel of communication between the two governments. The President is strongly interested in maintaining open channels of communication with other governments, whether or not we approve of them or agree with their policies.

Through the Interests Section, the Administration has been able to express strongly and directly to the Cubans our objections to their military presence in Africa. Indeed, the Administration has stated publicly and privately to the Cubans that there can be no further progress toward normalization of relations until we see convincing evidence of Cuban restraint including troop withdrawals.

7. Implementation of the Panama Canal Treaties
of 1978 - Section 606 - House Version

The Administration strongly opposes this provision since it would severely disrupt the ability of the

Executive Branch to carry out the necessary planning and preparations to implement the Panama Canal Treaties. For example, the United States Government must plan internally and with Panama for the latter's operation of the Panama Railroad, the Ports of Balboa and Cristobol and the assumption of responsibility for police and fire protection and other public services utilized by the Panama Canal organization and its employees. By prohibiting the expenditure of funds "directly or indirectly" for implementation of the Treaties in FY-79 the amendment could be interpreted as prohibiting the vital preparatory activities which must be undertaken in FY-79 in order to safeguard the interests of the United States when the Treaties come into force. Before the effective date of the Treaties and their implementation, the Congress will have an opportunity to modify and vote on implementing legislation. We believe this would be a more appropriate way for the Congress to deal with Panama Canal issues.

8. Responsibilities of Chiefs of Mission --
Section 119 - Senate Version;
Section 410 - House Version

The Administration strongly prefers the House version. The Senate added the additional words "notwithstanding any other provision of law" to 22 U.S.C. 2680a -- the basic statutory statement of the responsibilities of Ambassadors -- which could be construed as having the effect of limiting the President's discretion as authorized in the prefatory phrase of 22 U.S.C. 2680a. The Administration agrees that 22 U.S.C. 2680a means that disclosure of intelligence information to Ambassadors is authorized within the meaning of the National Security Act of 1947. Under the authority of 22 U.S.C. 2680a the President has in his letter of October 25, 1977 directed that all U. S. personnel abroad should keep Ambassadors thoroughly informed about their activities. The President has determined that further clarification in law is not necessary. Furthermore the "notwithstanding" clause could have the effect of indiscriminately overriding other statutory limitations on disclosure of information, e.g., the Privacy Act and the Internal Revenue Code.

Your staff is already in receipt of the Administration's views on all conference items, which were transmitted a short time ago.

Sincerely,

Douglas J. Bennet, Jr.
Assistant Secretary

for Congressional Relations

TO: OMB Tracey Cole
FM: State Dwight Mason
Subj: Section 108

Honorable John J. Sparkman
Chairman
Committee on Foreign Relations
United States Senate

and

Honorable Clement J. Zablocki
Chairman
Committee on International Relations
United States House of Representatives

Dear Mr. Chairman:

Section 108 of the State Department Authorization Act as adopted by the Senate (S. 3076) would, if enacted, adversely affect the operation of this Department.

Section 15(b) of the basic authority for the Department of State (codified as 22 U.S.C. et. seq.) now requires that:

The Department of State shall keep the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives fully and currently informed with respect to all activities and responsibilities within the jurisdiction of these committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either such committee relating to any such activity or responsibility.

Section 108 would add the words "(notwithstanding the department, agency, or independent establishment of origin)" after the word "information" in the second sentence of 15(b).

This amendment would prohibit the "third agency rule" and deny to other agencies responsibility for documents

given to the Department of State. Traditionally, section 15(b) has not been interpreted as requiring the Department to furnish documents that originate with another agency without the consent of that agency. We think this practice is sound, and we urge that it not be changed.

If section 108 is enacted, an originating agency will lose control over its documents when it provides copies to the Department of State. As a result, the agencies will be reluctant to share information with us, especially in sensitive areas, such as intelligence. ~~The amendment is also troublesome because it would re-~~
~~solve the "third agency rule" only as to the Department,~~
~~making us an exception to the general rule.~~

It is my understanding that this amendment results largely from displeasure on the part of some members of Congress that current practice has resulted in delays in providing information. We, of course, regret any delays, and we will do everything we can in the future to prevent them.

I urge that this amendment not be adopted. If current practices for the provision of information to Congress are not working satisfactorily, we would be glad to work with you to improve ~~the practices~~ *them*.

The deleterious effects of this amendment are so great that if it were adopted by the Conference, I would have to recommend to the President that he veto the bill. The Attorney General, Secretary of Defense, and the Director of Central Intelligence would make similar recommendations to the President.

The Departments of Justice and Defense and the Director of Central Intelligence concur in this letter and the Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to its submission.

Sincerely,

Cyrus R. Vance